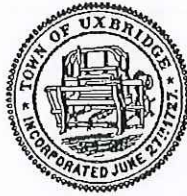


REC'D UXB TOWN CLERK  
2022 OCT 18 AM 11:28

Rob Knapik, Chairperson  
John Gniadek, Vice Chairperson  
Thomas McNulty, Member  
Jim Blackburn, Associate Member



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2019 p

## **Zoning Board of Appeals DECISION**

ZBA Case #: FY23-04  
Zone: Agricultural Zoning District  
Applicant: Richardson-North Corporation  
Property Address: 306 Hazel Street  
Assessor's Reference Map: 23 Parcel: 0545  
Worcester Registry of Deeds Book: 18429 Page: 144

### **VARIANCE DENIED**

October 5, 2022

**VOTING MEMBERS:** Rob Knapik, Jim Blackburn, Thomas McNulty

#### **SUBMITTALS:**

- Zoning Board of Appeals Application and Fees submitted by Tracy Sharkey, Sharkey Realty Services
- Zoning Board of Appeals Plan for 306 Hazel Street prepared by Andrews Survey and Engineering dated September 10, 2019
- Uxbridge Zoning Board of Appeals Decision for Hazel Street, dated January 10, 2000, Worcester
- Uxbridge Zoning Board of Appeals Decision for 306 Hazel Street, dated November 6, 2019
- Recorded Property Deed and Driveway Easement
- Uxbridge Board of Health Approved Well Permit Application issued July 2, 2019
- Certified Abutter List dated August 8, 2022

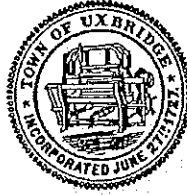
**REQUEST:** The Applicant is requesting a VARIANCE to reduce the frontage dimensional requirement from Appendix B Table of Dimensional Requirements of the Uxbridge Zoning Bylaws from three-hundred feet (300') to zero feet (0'). Access to the property is provided by a twenty-foot (20') right-of-way driveway easement.

#### **PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:**

A public hearing on the Application was opened & closed by the Board on October 5, 2022.

Tracy Sharkey, Sharkey Realty Services, attended the public hearing on behalf of the Applicant. Ms. Sharkey provided background information on the property explaining the Subject parcel is remainder land from one large parcel and it was subject to an eminent domain taking for a public way. The Applicant was granted a Special Permit in January 2000 to allow the lot to be built upon with no frontage upon acquisition of a driveway/utility easement. She provided the recorded driveway easement and permits for utilities to support the position that the Special Permit had been exercised. She also stated that this parcel has been taxed as a "buildable lot" since 2000. She proposed that the desired relief may be granted without detriment to the public good as the parcel contains twice the minimum lot area required for a building lot and fits with the neighborhood characteristics.

Rob Knapik, Chairperson  
John Gniadek, Vice Chairperson  
Thomas McNulty, Member  
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## **Zoning Board of Appeals DECISION**

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She said the special circumstances related to the land is that it was subject to an eminent domain taking, incorrectly shown on all town maps and has a 20' driveway easement for access.

In 2019, after being denied a Building Permit the Applicant appealed to the Zoning Board of Appeals for relief in the form of a Variance. The request was denied and appealed by the Applicant in Land Court and dismissed July 1, 2020. The ability of the Board to proceed independent of the past petitions was confirmed with Town Counsel during the hearing. The Board also confirmed with Town Counsel that there is nothing that prohibits them from varying the frontage down to zero, provided that they agree the applicant has met the standard and whether or not granting the variance is consistent with, or whether it derogates from the intent of the bylaw.

Several abutters spoke in opposition to the proposal including the owner of the property on which the driveway easement is held.

Members verified the long-term validity of the easement and discussed whether it is appropriately sized for all required access. They agreed frontage requirement laws were enacted to ensure every lot might be reached by agencies charged with protecting the health safety and welfare of the public. Members acknowledged that in order to grant a Variance, as defined in M.G.L. Chapter 40A, Section 10, their charge is to find that circumstances owing to the soil, shape, or topography of the land that resulted in a hardship and the relief granted cannot nullify or derogate from the intent of the Zoning Bylaw. They considered how to ensure the purpose of the bylaw is maintained if they grant the Variance and what conditions would be appropriate.

### **MOTIONS / VOTES:**

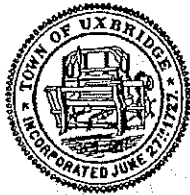
Mr. McNulty made a **MOTION** to close the Public Hearing FY 23-04 for 306 Hazel Street. **MOTION SECONDED** by Mr. Blackburn passed unanimously by **VOTE** of 3-0-0.

Mr. Knapik made a **MOTION** to **GRANT** the **VARIANCE** as requested for 306 Hazel Street on finding that there's a hardship, and that it wouldn't substantially derogate from the intent of the bylaw. **MOTION NOT SECONDED**.

Mr. Blackburn made a motion to **DENY** the **VARIANCE** as requested for 306 Hazel Street on a finding that the Applicant did not demonstrate a circumstance relating to the soil conditions, shape or topography leading to a hardship or sufficient evidence that the granting of a Variance in this instance would be in accord with the general intent of the Zoning Bylaw.

**MOTION SECONDED** by Mr. McNulty failed by **VOTE** of 2-1-0.

Rob Knapik, Chairperson  
John Gniadek, Vice Chairperson  
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## Zoning Board of Appeals DECISION

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### SIGNATURE PAGE

Rob Knapik, Chairperson

  
John Gniadek, Vice Chairperson

Thomas McNulty, Member

Jim Blackburn, Associate Member

October 5, 2022

Date

Rob Knapik, Chairperson  
John Gniadek, Vice Chairperson  
Thomas McNulty, Member  
Jim Blackburn, Associate Member



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## **Zoning Board of Appeals DECISION**

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Appeals, if any, from this decision shall be made pursuant to M.G.L. Chapter 40 A, Section 17 and filed within 20 days after the date of the filing in the Office of the Town Clerk.

I hereby certify that twenty (20) days has elapsed from the file date and no appeal has been filed in this office.

A true copy: ATTEST

\_\_\_\_\_  
Town Clerk, Kelly Dumas or  
Assistant Town Clerk

\_\_\_\_\_  
Date

Town Seal

**\*\*THE APPLICANT IS REMINDED OF THEIR RESPONSIBILITY TO RECORD THIS  
DECISION AT THE REGISTRY OF DEEDS PER THE CERTIFICATE OF GRANTING.  
NO PERMITS SHALL ISSUE UNTIL THE PERMIT IS RECORDED. \*\***